(17,795.)

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1900.

No. 310.

PETER AMBROSINI, PLAINTIFF IN ERROR,

vs.

THE UNITED STATES.

IN ERROR TO THE DISTRICT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF ILLINOIS.

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JUDD & DETWEILER, PRINTERS, WASHINGTON, D. C., JUNE 11, 1900.

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1 Pleas had at a regular term of the district court of the United States of America for the northern division of the northern district of Illinois, begun and held in the United States court-rooms, in the city of Chicago, in said division and district, on the third Monday of December, it being the eighteenth day thereof, in the year of our Lord one thousand eight hundred and ninety-nine, and of the Independence of the United States of America the one hundred and twenty-fourth year.

Present: The Hon. Christian C. Kohlsaat, judge presiding; John C. Ames, United States marshal for said district, and T. C. MacMillan, clerk of said district court.

UNITED STATES
vs. } 3125.
PETER AMBROSINI.

Be it remembered that heretofore, to wit, on the 27th day of October, A. D. 1899, it being one of the days of the July term of the district court of the United States for the northern division of the northern district of Illinois, begun and held in the United States court-rooms, in the city of Chicago, in the said division and district, on the first Monday of July, it being the 3rd day thereof, in the year of our Lord one thousand eight hundred and ninety-nine, and of the Independence of the United States of America the one hundred and twenty-fourth year, before the Hon. Christian C. Kohlsaat, judge of said court, presiding, the following order was had and entered of record in said cause, to wit:

THE UNITED STATES
vs. } 3125. Sec. 7, 17. Vio. Int. Rev. Laws.
PETER AMBROSINI.

Come the grand jury this day and return in open court an indictment against Peter Ambrosini, the defendant herein.

Whereupon, on motion of the district attorney,

It is ordered by the court that the said indictment be filed and the cause placed upon the dockets of this court.

2 And afterwards, to wit, on the 27th day of October, A. D. 1899, an indictment was filed in the clerk's office of said court in the above-entitled cause, said indictment being in the words and figures following, to wit:

In the District Court of the United States of America for the Northern District of Illinois, Northern Division, of the October Adjourned Term, in the Year of Our Lord Eighteen hundred and ninety-nine.

NORTHERN DISTRICT OF ILLINOIS,
Northern Division, } *ss:*

The grand jurors for the United States of America, inquiring for the northern division of the northern district of Illinois, upon their

oath present that Peter Ambrosini, late of the city of Chicago, in the said division and district, on the twentieth day of August, in the year of our Lord eighteen hundred and ninety-eight, at Chicago aforesaid, in the division and district aforesaid, unlawfully did make, sign, and issue a certain instrument, document, and paper, to wit, a certain grocery bond, of the tenor following—that is to say:

Grocery Bond.

Know all men by these presents that we, Peter Ambrosini, as principal, and Thomas J. Fincane and Nicholas J. Sinott, as sureties, of the county of Cook and State of Illinois, are held and
3 firmly bound unto the People of the State of Illinois in the penal sum of three thousand dollars; for the payment of which sum, well and truly to be made, we bind ourselves, our heirs, executors, and administrators, jointly and severally, firmly by these presents.

Sealed with our seals and dated this 30th day of August, A. D. 1898.

The condition of this obligation is such that whereas the above-bounden Peter Ambrosini has obtained a license to keep a dram shop at No. 78*th* E. State Str., in said city, until 30th Dec., A. D. 189–:

Now, if the said P. Ambrosini shall well, truly, and promptly pay or cause to be paid all damages to any person or persons which may be inflicted upon them, either in person or property or means of support, by reason of his or their selling or giving away intoxicating liquors in any quantity, to be drank in, on, or about the building or premises where sold, or to be drank in any adjoining room, building, or premises or other place of public resort connected with said building, then this obligation to be void; otherwise to remain in full force and effect.

PETER AMBROSINI. [SEAL.]
T. J. FINNCANE. [SEAL.]
N. J. SINNOTT. [SEAL.]

4 without the same bond being stamped with a stamp or stamps in the amount of fifty cents for denoting the internal-revenue tax imposed upon such bonds by the act of Congress approved June 13, 1898, entitled "An act to provide ways and means to meet war expenditures, and for other purposes," which said bond then and there was not such a bond as was or might be required in legal proceedings, nor a bond issued by the officers of the United States Government, or by the officers of any State, county, town, municipal corporation, or other corporation exercising the taxing power, nor a bond issued by any State, county, town, or other municipal corporation in the exercise of functions strictly belonging to it in its ordinary governmental, taxing, or municipal capacity, nor a bond issued by a co-operative building and loan association whose capital stock did not exceed ten thousand dollars, nor a bond issued by a building and loan association or company that made loans only to its shareholders, against the peace and dignity of the said United

States and contrary to the form of the statute of the same in such case made and provided.

And the grand jurors aforesaid upon their oath aforesaid do further present that the said Peter Ambrosini, on the said thirtieth day of August, in the same year eighteen hundred and
5 ninety-eight, at Chicago aforesaid, in the division and district aforesaid, unlawfully did make, sign, and issue a certain other instrument, document, and paper, to wit, a certain saloon bond of the following tenor—that is to say:

Saloon Bond.

Know all men by these presents that we, Peter Ambrosini, as principal, and Thomas J. Finncane and Nicholas J. Sinnott, as sureties, of the county of Cook and State of Illinois, are held and firmly bound unto the City of Chicago in the penal sum of five hundred dollars; for the payment of which sum, well and truly to be made, we bind ourselves, our heirs, executors, and administrators, jointly and severally, firmly by these presents.

Sealed with our seals and dated this 30th day of August, A. D. 1898.

The condition of this obligation is such that whereas the above-bounden Peter Ambrosini has obtained a license to keep a dram shop until 30th Dec., A. D. 1898, at No. 78*½* A. State Str., in said city:

Now, if the said Peter Ambrosini shall faithfully observe and keep all ordinances now in force or hereafter to be passed during
6 the period of such license, and shall keep closed all doors opening out upon any street from the bar or room where such liquors are sold on Sunday, and that all windows opening upon any street from such bar or room where such liquors are sold shall be provided with blinds, shutters, or curtains on Sunday, so as to obstruct the view from such street into such rooms; and shall prevent all playing for money, liquor, or any article or thing upon any table of any kind, or with cards or dice, or with pigeon-holes, or upon or with any article or thing whatever; and shall not keep any billiard table on or about the said premises without paying to said city the proper license or penalty therefor, whether in actual use or not; and shall not keep any ball alley or pin alley on or about the premises without paying to said city the proper license or penalty therefor, whether in actual use or not; and shall allow no vagrant, no keeper of a house of ill-fame, no prostitute, no drunken or disorderly person in or about the premises; and shall allow no concert, exhibition, ball, dance, or play to be given or performed in the same room where the liquors are sold; and shall also, immediately upon a notice of revocation of this license by the mayor (in case of such revocation), cease to keep such premises open, and shall not sell, give away, or in any manner deal in, by himself, servant, or any other person, any such liquor after notice of said revocation is left at the bar, and in case said licensee shall sell and convey said prem-

ises, said purchaser shall well and faithfully observe and
7 perform all requirements upon said license by the conditions of this bond and the ordinance of said city until such time as said license shall be legally transferred upon the books of the city, then this obligation to be void; otherwise to be and remain in full force and effect.

PETER AMBROSINI. [SEAL.]
T. J. FINNCANE. [SEAL.]
N. J. SINOTT. [SEAL.]

Approved:
JOS. S. MARTIN.

without the last-mentioned bond being then and there stamped with an adhesive stamp or stamps in the amount of fifty cents for denoting the internal-revenue tax imposed upon such bonds by the act of Congress of the said United States, approved June 13, 1898, entitled "An act to provide ways and means to meet war expenditures, and for other purposes;" which said bond in this court mentioned then and there was not such a bond as was or might be required in legal proceedings, nor a bond issued by the officers of the United States Government, nor a bond issued by the officers of any State, county, town, municipal corporation, or other corporation exercising the taxing power in the exercise only of functions strictly belonging to it in its ordinary governmental, taxing, or municipal capacity, nor a bond issued by a co-operative building and loan association
whose capital stock did not exceed ten thousand dollars, nor
8 yet a bond issued by a building and loan association or company that made loans only to its stockholders, against the peace and dignity of the said United States and contrary to the form of the statute of the same in such case made and provided.

S. H. BETHEA,
United States Attorney.

Endorsed: No. 3125. United States district court, northern district of Illinois, northern div. The United States of America vs. Peter Ambrosini. Indictment on sect. 7, act June 13, 1898 (30 Stat. at L., 452; see also sec. 17 and "Schedule A," bond). (Internal-revenue laws.) A true bill. Gardner W. Thompson. Filed in open court this 27th day of October, A. D. 1899. T. C. MacMillan, clerk. Bail, $100.00.

9 And afterwards, to wit, on the 17th day of November, A. D. 1899, the following order was had and entered of record in said cause before the Hon. Christian C. Kohlsaat, judge, to wit:

THE UNITED STATES } 3125.
vs.
PETER AMBROSINI.

Come the parties, by their attorneys, and the defendant, by his counsel, moves the court to quash the indictment filed herein against him; whereupon it is ordered by the court that said motion be set down for hearing on November 20, A. D. 1899, at ten o'clock a. m.

And afterwards, to wit, on the 2nd day of February, A. D. 1900, there was filed in said court a motion to quash the indictment filed herein, said motion being in the words and figures following, to wit:

10 UNITED STATES OF AMERICA, } ss:
Northern District of Illinois, }

In the United States District Court in and for said District.

UNITED STATES }
vs.
PETER AMBROSINI. }

Now comes the defendant, Peter Ambrosini, by Moran, Mayer & Meyer, his attorneys, and respectfully moves the court to quash the indictment herein, and shows to the court that the said indictment and each count thereof is insufficient for the following several reasons:

1. The same does not state any charge against this defendant subject to punishment under any statute of the United States.

2. The State of Illinois is sovereign, and as such sovereign State, under its constitution, has erected within its borders the city of Chicago, and the said city of Chicago is one of the instrumentalities by which the said State of Illinois is enabled to perform its functions of State sovereignty.

3. That under the constitution of said State it becomes its
11 duty to protect the people thereof by the enactment and enforcement of laws looking to the good government of said State and every part thereof, and protecting the good morals, good health, and peaceable government of the same.

4. That under the constitution of the State of Illinois the said State is empowered to tax, regulate, and control certain specific occupations, among others those of dealers in spirituous and intoxicating liquors, and under such constitutional provision of the legislature of said State, with the approval of the executive of said State, laws have been passed regulating the traffic in intoxicating liquors and controlling and regulating the business of liquor dealers.

5. That under this well-recognized power the said State has delegated to the city of Chicago, by proper enactment, the like power to regulate and control the traffic in intoxicating liquors and the business of liquor dealers.

6. Under such delegated authority the said city of Chicago has enacted, under the proper rules and regulations, certain ordinances of said city prescribing how, when, and in what manner said business of dealing in intoxicating liquors shall be carried on, regulated, and controlled; that among other requirements of the said legislation regulating and controlling the business of liquor dealers in the said city of Chicago the bonds set out in said indictment and in each count thereof were executed and delivered to the proper
12 officers of said city, accepted by said officers, and the license provided under the said laws, rules, and regulations of the

city of Chicago issued to the said defendant, authorizing him to carry on the business of a retail dealer in liquor under what is known as the dram-shop act of the State of Illinois.

7. That in order for the authorities of the city of Chicago to properly regulate and control the said business of retail dealer in liquors, and conserve the peace, happiness, good order, and good health of its inhabitants, the execution, delivery, and acceptance of said bonds set out in said indictment *was* necessary, and that any attempt on the part of the Government of the United States to prescribe that such bonds, before their delivery, should be stamped by a 50-cent adhesive stamp, under the war-revenue act of 1868, is unconstitutional and void.

8. That the bonds referred to in both counts of the indictment are bonds required to be and in fact executed in the exercise of functions strictly belonging to both and either of the State of Illinois and city of Chicago in the ordinary governmental taxing and municipal capacity of said State and city.

9. That said indictment and each count thereof is insufficient in form.

10. Said indictment and each count thereof is insufficient in substance.

13 11. The said act of Congress referred to in said indictment does not extend to and apply to the bonds and instruments mentioned in said indictment.

PETER AMBROSINI,
By MORAN, MAYER & MEYER,
His Attorneys.

And afterwards, to wit, on the 2nd day of February, A. D. 1900, the following order was had and entered of record in said cause before the Hon. William H. Seaman, judge, to wit:

THE UNITED STATES
vs. } 3125.
PETER AMBROSINI.

This cause coming on to be heard on motion of the defendant to quash the indictment herein, come the parties, by their attorneys, and the court, having heard the arguments of counsel and not now being fully advised in the premises, takes the matter under advisement.

And afterwards, to wit, on the 7th day of February, A. D. 1900, there was filed in the clerk's office of said court the opinion of the court in the above-entitled cause, said opinion of court being in the words and figures following, to wit:

District Court of the United States, Northern District of Illinois, N. D.

UNITED STATES *vs.* PETER AMBROSINI. } On Motion to Quash Indictment.

SEAMAN, *District Judge:*

The indictment charges the defendant on two counts for executing and issuing two bonds respectively without the revenue stamp required by the act of June 13, 1898, one being a bond to the people of the State of Illinois, as demanded by statute, for obtaining a "license to keep a dram shop," and the other a bond to the city of Chicago, as required by ordinance of the city for like purpose. The contention on behalf of the defendant is twofold: (1) That the bonds in question are exempt under the terms of this act of Congress; and (2), if included within the terms of the act, the provision is unconstitutional in respect of such bonds as instrumentalities of the State and municipal government. I am of opinion that neither of these propositions is tenable.

1. For the first contention sec. 17 of the act is cited, but the exemptions there provided relate exclusively to bonds and other instruments issued by governmental authorities, and with the utmost liberality of construction are not applicable to bonds executed by individuals to the State or municipality for a license or other individual benefit.

2. If the bonds can be regarded as necessary means or "instrumentalities for the exercise of the functions of State or municipal government," as counsel insists, the second proposition is not without force—State *ex rel.* Lahey *v.* Garton, 13 Ind., 1; Jones *v.* Estate of Keep, 19 Wis., 369; Sayles *v.* Davis, 22 Wis., 225; Fifield *v.* Close, 15 Mich., 505. But the business of saloon-keeping is neither a governmental function nor essential to its administration, although good government may demand that the business be permitted only under regulations secured by bonds on the part of the applicant. The bond so exacted is a mere incident of the regulation. It is in no sense the act or obligation of the public or of a representative of the public, but is the applicant's individual undertaking to obtain a personal privilege, and as such is certainly not an immune in respect of stamp duties required of other citizens executing
15 personal bonds or obligations. Neither the State nor its administration are affected directly or indirectly by the tax so imposed, as the bond must be executed and stamped when tendered, and if in any view an instrumentality of the State, it becomes such only when fully executed.

The motion to quash the indictment is overruled, and an order will so enter.

W. H. S.

Endorsed · No. 3125. United States *vs.* Peter Ambrosini. Opinion of court. Filed Feb. 7, A. D. 1900. T. C. MacMillan, clerk.

And afterwards, to wit, on the 7th day of February, A. D. 1900, the following order was had and entered of record in said cause by direction of Hon. Wm. H. Seaman, district judge.

THE UNITED STATES
vs. } 3125.
PETER AMBROSINI.

The court, having considered the motion to quash the indictment herein and being fully advised in the premises, overrules the same.

And afterwards, to wit, on the 20th day of March, A. D. 1900, the following order was had and entered of record in said cause before the Hon. Christian C. Kohlsaat, judge, to wit:

THE UNITED STATES
vs. } 3125.
PETER AMBROSINI.

Come the parties, by their attorneys, and the defendant in his own proper person, and, being arraigned upon the indictment filed herein against him, the defendant pleads not guilty thereto.

The parties, by their attorneys, in open court waive a trial by jury and consent that this cause may be heard by the court without a jury, and, further, that this cause may be submitted to the court on briefs to be filed within one week.

16 And afterwards, to wit, on the 14th day of April, A. D. 1900, the following order was had and entered of record in said cause before the Hon. Christian C. Kohlsaat, judge, to wit:

THE UNITED STATES
vs. } 3125.
PETER AMBROSINI.

This cause coming on to be heard, comes the parties, by their attorneys, and the court, having considered and being now fully advised in the premises, finds the defendant, Peter Ambrosini, guilty as charged in the indictment filed herein against him; and, on motion of S. H. Bethea, Esq., United States attorney, it is ordered by the court that this cause be continued until Saturday, April 28, 1900, for sentence.

17 And afterwards, to wit, on the 28th day of April, A. D. 1900, came the defendant, by his attorney, and filed in said court a motion in arrest of judgment; which said motion is in the words and figures following, to wit:

UNITED STATES OF AMERICA:

In the District Court of the United States in and for the Northern District of Illinois.

UNITED STATE
v.
PETER AMBROSINI. } Gen. No., 3125.

Motion in Arrest of Judgment.

Now comes said defendant, Peter Ambrosini, and moved this honorable court in arrest of judgment, and as grounds of said motion states the following:

(1.) Because the said indictment herein and each count thereof are null and void.

(2.) Because the alleged acts charged in and by each of the counts of said indictment to have been done by this defendant do not constitute a crime or an offense cognizable by this court.

(3.) Because that part of the statute of the United States entitled "An act to provide ways and means to meet war expenditures, and for other purposes," approved June 13, 1898, upon which said petitioner was convicted, is unconstitutional and void.

(4.) The judgment of said district court is contrary to law.

And for other causes of error not herein specifically set forth.

PETER AMBROSINI,
By MORAN, MAYER & MEYER,
His Attorneys.

LEVY MAYER, *Of Counsel.*

18 Endorsed: G. No., 3125. U. S. district court of Cook county. United States *vs.* Peter Ambrosini. Motion in arrest of judgment. Filed April 28, 1900. T. C. MacMillan, clerk.

And afterwards, to wit, *of* the 28th day of April, A. D. 1900, the following order was had and entered of record in said cause before the Hon. Christian C. Kohlsaat, judge, to wit:

THE UNITED STATES
vs.
PETER AMBROSINI. } 3125.

Come the parties, by their attorneys, and the defendant, by his attorney, enters his motion in arrest of judgment; which said motion is heard and overruled by the court, and the defendant being asked by the court if he has anything to say why the sentence and judgment of the court should not now be pronounced upon him, and showing no good and sufficient reason why sentence and judgment should not be pronounced, it is therefore considered by the court and as the sentence and judgment of the court upon the finding of guilty by the court, as aforesaid, that the defendant, Peter Ambrosini, forfeit and pay to the United States a fine in the sum of twenty-five dollars, for which let execution issue.

And afterwards, to wit, on the 28th day of April, A. D. 1900, there was filed in the clerk's office of said court a petition for writ of error, said petition being in the words and figures following, to wit:

19 UNITED STATES OF AMERICA:

In the District Court of the United States in and for the Northern District of Illinois.

THE UNITED STATES
vs.
PETER AMBROSINI. } Gen. No., 3125.

And now comes Peter Ambrosini, defendant in the above-entitled cause, and, feeling himself aggrieved by the judgment *od* this honorable court entered herein on the 28th day of April, A. D. 1900, petitions this court for an order allowing him, said defendant, to prosecute a writ of error to the honorable the Supreme Court of the United States under and in accordance with the laws of the United States in that behalf made and provided, and prays also that all further proceedings in this court be suspended and stayed until the determination of said writ of error by said the honorable Supreme Court of the United States.

And your orator will ever pray.

PETER AMBROSINI,
By MORAN, MAYER & MEYER,
His Attorneys.

LEVY MAYER, *Of Counsel.*

Endorsed: G. No., 3125. United States supreme court of Cook county. The United States *vs.* Peter Ambrosini. Petition. Filed April 28, 1900. T. C. MacMillan, clerk. Moran, Mayer & Meyer.

20 And afterwards, to wit, on the 28th day of April, A. D. 1900, the following order was had and entered of record in said cause before the Hon. Christian C. Kohlsaat, judge, to wit:

THE UNITED STATES
vs.
PETER AMBROSINI. } 3125.

Upon motion of Peter Ambrosini, defendant in said cause, and upon the filing of the petition for a writ of error and an assignment of errors, it is ordered that the writ of error be, and it hereby is, allowed, to have reviewed in the Supreme Court of the United States the judgment heretofore entered herein, and that all further proceedings in this court be suspended and stayed until the determination of said writ of error by said Supreme Court of the United States.

21 And afterwards, to wit, on the 28th day of April, A. D. 1900, the following assignment of errors was filed in the

clerk's office of the district court of the United States for the northern district of Illinois, said assignment of errors being in the words and figures following, to wit:

Assignment of Errors.

In the District Court of the United States for the Northern District of Illinois, Northern Division.

THE UNITED STATES
vs.
PETER AMBROSINI. } Gen. No., 3125.

Comes now the defendant, Peter Ambrosini, defendant in the above-entitled cause, and files the following assignment of errors upon which he will rely in his prosecution of the writ of error to the above-entitled cause:

1. That said district court erred in overruling the motion of said defendant to quash the indictment in said cause.

2. That said district court erred in overruling the motion of said defendant in arrest of judgment.

3. That said district court erred in finding the defendant guilty and in rendering judgment against said defendant.

4. That said judgment is contrary to the law and the facts.

5. That said district court erred in not holding that part of the act of Congress approved June 13, 1898, entitled "An act to provide ways and means to meet war expenditures, and for other
22 purposes," upon which said petitioner was convicted, unconstitutional, and in not adjudging said defendant by reason thereof entitled to his discharge from said indictment.

6. That said district court erred in holding that the acts charged in the indictment herein against said defendant came with section seven of the act of Congress approved June 13, 1898, and entitled "An act to provide ways and means to meet war expenditures and for other purposes."

7. That said district court erred in holding that said section seven applied to the acts charged in said indictment against this defendant.

Wherefore the said defendant and plaintiff in error prays that the judgment of said court be reversed, and that said indictment in said cause be quashed against him, said defendant.

MORAN, MAYER & MEYER,
Attorneys for said Defendant, Peter Ambrosini.

LEVY MAYER, *Of Counsel.*

Endorsed: G. No., 3125. U. S. district court of Cook county. The United States *vs.* Peter Ambrosini. Assignments of error. Filed April 28, 1900. T. C. MacMillan, clerk.

23 And afterwards, to wit, on the 28th day of April, A. D. 1900, there was filed in the clerk's office of the district court of the United States for the northern district of Illinois a bill of exceptions; which said bill of exceptions is in the words and figures following, to wit:

UNITED STATES OF AMERICA, } ss:
Northern District of Illinois, }

In the United States District Court in and for said Northern District.

UNITED STATES }
vs.
PETER AMBROSINI. }

Bill of Exceptions.

Be it remembered that heretofore, on the trial of the above-entitled cause, at the March term, A. D. 1900, before the Honorable Christian C. Kohlsaat, judge of said district court of the United States in and for the northern district of Illinois, the following proceedings were had and taken and the following evidence was offered, introduced, and considered:

Appearances: Mr. Solomon H. Bethea, United States district attorney, for said United States; Mr. Levy Mayer, of the firm of Moran, Mayer & Meyer, attorney for said defendant, Peter Ambrosini.

24 And the court now here certifiees that on November 11th, A. D. 1899, there was entered of record in said cause a motion to quash said indictment; that thereafter and on February 2d, A. D. 1900, there was filed in said cause a written motion to quash said indictment; which said motion is in words and figures as follows, to wit:

UNITED STATES OF AMERICA, } ss:
Northern District of Illinois, }

In the United States District Court in and for said District.

UNITED STATES }
vs.
PETER AMBROSINI. }

Now comes the defendant, Peter Ambrosini, by Moran, Meyer & Meyer, his attorneys, and respectfully moves the court to quash the indictment herein, and shows to the court that the said indictment and each count thereof is insufficient, for the following several reasons:

1. The same does not state any charge against this defendant subject to punishment under any statute of the United States.

2. The State of Illinois is sovereign, and as such sovereign State, under its constitution, had erected within its borders the city of

Chicago, and the said city of Chicago is one of the instrumentalities by which the said State of Illinois is enabled to perform its functions of State sovereignty.

3. That under the constitution of said State it becomes its
25 duty to protect the people thereof by the enactment and enforcement of laws looking to the good government of said State and every part thereof and protecting the good morals, good health, and peaceable government of the same.

4. That under the constitution of the State of Illinois the said State is empowered to tax, regulate, and control certain specific occupations, among others those of dealers in spirituous and intoxicating liquors, and under such constitutional provisions of the legislature of said State, with the approval of the executive of said State, laws have been passed regulating the traffic in intoxicating liquors and controlling and regulating the business of liquor dealers.

5. That under this well-recognized power the said State has delegated to the city of Chicago, by proper enactment, the like power to regulate and control the traffic in intoxicating liquors and the business of liquor dealers.

6. Under such delegated authority the said city of Chicago has enacted, under the proper rules and regulations, certain ordinances of said city prescribing how, when, and in what manner said business of dealing in intoxicating liquors shall be carried on, regulated, and controlled; that among other requirements of the said legislation regulating and controlling the business of liquor dealers in said city of Chicago the bonds set out in said indictment and in each count thereof were executed and delivered to the proper officers of said city, accepted by said officers, and the license provided
26 under the said laws, rules, and regulations of the city of Chicago issued to the said defendant, authorizing him to carry on the business of a retail dealer in liquor under what is known as the dram-shop act of the State of Illinois.

7. That in order for the authorities of the city of Chicago to properly regulate and control the said business of retail dealer in liquors and conserve the peace, happiness, good order, and good health of its inhabitants, the execution, delivery, and acceptance of said bonds set out in said indictment *was* necessary, and that any attempt on the part of the Government of the United States to prescribe that such bonds, before their delivery, should be stamped by a 50-cent adhesive stamp, under the war-revenue act of 1868, is unconstitutional and void.

8. That the bonds referred to in both counts of the indictment are bonds required to be and in fact executed in the exercise of functions strictly belonging to both and either of the State of Illinois and city of Chicago in the ordinary governmental taxing and municipal capacity of said State and city.

9. That said indictment and each count thereof is insufficient in form.

10. Said indictment and each count thereof is insufficient in substance.

11. The said act of Congress referred to in said indictment does not extend to and apply to the bonds and instruments mentioned in said indictment.

PETER AMBROSINI,
By MORAN, MAYER & MEYER, *His Att'ys.*

27 That thereafter and on February 7, A. D. 1900, after hearing the arguments of counsel, said court denied said motion to quash said indictment; to which said denial said defendant then and there duly excepted.

That thereafter and on March 20, A. D. 1900, said defendant was arraigned and entered his plea of "not guilty," and said defendant thereupon in open court waived a jury and submitted the trial of the issues herein to said court without a jury.

That thereupon said court proceeded to try said case, and upon the trial of said case the facts hereinafter set forth were stipulated between the parties hereto as the facts in said case upon which said trial was had, and that such facts so stipulated were received and considered as evidence by said court, and were all the facts and all the evidence offered by either party or heard or considered by said court upon the trial of said case; said facts so stipulated are as follows: That said defendant, on the 30th day of August, A. D. 1898, at the city of Chicago, in the State of Illinois, in the division and district aforesaid, made, signed, and executed a certain instrument, to wit, a certain "grocery bond," in words and figures as follows:

Know all men by these presents that we, Peter Ambrosini, as principal, and Thomas J. Finncane and Nicholas J. Sinott, as sureties, of the county of Cook and State of Illinois, are held
28 and firmly bound unto the People of the State of Illinois in the penal sum of three thousand dollars; for the payment of which sum, well and truly to be made, we bind ourselves, our heirs, executors, and administrators, jointly and severally, firmly by these presents.

Sealed with our seals and dated this 30th day of August, A. D. 1898.

The condition of this obligation is such that whereas the above bounden Peter Ambrosini has obtained a license to keep a dram shop at No. 78*th* E. State Str., in said city, until the 30th Dec., A. D. 189–:

Now, if the said P. Ambrosini shall well, truly, and promptly pay or cause to be paid all damages to any person or persons which may be inflicted upon them, either in person or property or means of support, by reason of his or their selling or giving away intoxicating liquors in any quantity to be drank in, on, or about the building or premises where sold, or to be drank in any adjoining room, building, or premises, or other place of public resort connected with said building, then this obligation to be void; otherwise to remain in full force and effect.

PETER AMBROSINI. [SEAL.]
T. J. FINNCANE. [SEAL.]
N. J. SINOTT. [SEAL.]

It was further stipulated and agreed that on said 30th day of August, A. D. 1898, said defendant did make, sign, and execute a certain other instrument in writing, being a "saloon bond," in
29 words and figures as follows:

Know all men by these presents that we, Peter Ambrosini, as principal, and Thomas J. Finncane and Nicholas J. Sinott, as sureties, of the county of Cook and State of Illinois, are held and firmly bound unto the city of Chicago in the penal sum of five hundred dollars; for the payment of which sum, well and truly to be made, we bind ourselves, our heirs, administrators, and executors, jointly and severally, firmly by these presents.

Sealed with our seals and dated this 30th day of August, A. D. 1898.

The condition of this obligation is *sich* that whereas the above-bounden Peter Ambrosini has obtained a license to keep a dram shop until 30th Dec., A. D. 1898, at No. 78*th* E. State Str., in said city:

Now, if the said Peter Ambrosini shall faithfully observe and keep all ordinances now in force or hereafter to be passed during the period of such license, and shall keep closed all doors opening out upon any street from the bar or room where such liquors are sold on Sunday, and that all windows opening upon any street from such bar or room where such liquors are sold shall be provided with blinds, shutters, or curtains on Sunday, so as to obstruct the view from such street into such rooms, and shall prevent all playing for money, liquor, or any article or thing upon any table of any kind, or with cards or dice, or with pigeon-holes, or upon or
30 with any article or thing whatever, and shall not keep any billiard table on or about said premises without paying to said city the proper license or penalty therefor, whether in actual use or not; and shall not keep any ball alley or pin alley on or about the premises without paying to said city the proper license or penalty therefor, whether in actual use or not; and shall allow no vagrant, no keeper of a house of ill-fame, no prostitute, no drunken or disorderly person, in or about the premises; and shall allow no concert, exhibition, ball, dance, or play to be given or performed in the same room where liquors are sold; and shall also, immediately upon a notice of revocation of this license by the mayor (in case of such revocation), cease to keep such premises open, and shall not sell, give away, or in any manner deal in, by himself, servant, or any other person, any such liquors after notice of said revocation is left at the bar; and in case said licensee shall sell and convey said premises said purchaser shall well and faithfully observe and perform all requirements upon said license by the conditions of this bond and by the ordinance of said city until such time as said license shall be legally transferred upon the books of the city, then this obligation to be void; otherwise to remain in full force and effect.

PETER AMBROSINI. [SEAL.]
T. J. FINNCANE. [SEAL.]
N. J. SI*M*OTT. [SEAL.]

Approved: JOS. J. MARTIN.

31 It was further stipulated and agreed that neither of said instruments in writing was stamped with any adhesive stamp or stamps, in the amount of 50 cents or any other amount whatsoever, for denoting the internal-revenue tax upon bonds, under and by an act of Congress of the said United States approved June 13, 1898, entitled "An act to provide ways and means to meet war expenditures, and for other purposes."

It was further stipulated and agreed that at the time said defendant made, signed, and executed said two instruments in writing that the same were made, signed, and executed under, pursuant to, and in conformity with certain acts of the legislature of the State of Illinois and ordinances of the city of Chicago; which said ordinances were duly passed by the common council of the city of Chicago and approved by the mayor of said city pursuant to the acts of said legislature in that behalf made and provided.

It was further stipulated and agreed upon said trial that said instrument in writing made, signed, and executed by said defendant, and hereinbefore first set forth and herein called a "grocery bond," was made, signed, and executed in pursuance to and in conformity with the laws of the State of Illinois in that behalf made and provided.

It was further stipulated and agreed that said instrument in writing hereinbefore set forth and hereinbefore called a "saloon
32 bond" was made, signed, and executed by said defendant under, pursuant to, and in conformity with the certain ordinance of said city of Chicago then in full force and effect; which said ordinance is as follows:

"The mayor of the city of Chicago shall, from time to time, grant licenses for the keeping of dram shops within the city of Chicago to persons who shall apply to him in writing therefor, and shall furnish evidence satisfying him of their good character. Each applicant shall execute to the city of Chicago a bond, with at least two sureties, to be approved by the city clerk or city collector, in the sum of five hundred dollars, conditioned that the applicant shall faithfully observe and keep all ordinances in force at the time of the application or thereafter to be passed during the period of the license applied for, and will keep closed, on Sundays, all doors opening out upon any street from the bar or room where such dram shop is to be kept; and that all windows opening upon any street from such bar or room shall, on Sundays, be provided with blinds, shutters or curtains, so as to obstruct the view from such street into such room. No application for a license shall be considered until such bond shall have been filed."

It was further stipulated and agreed that at the time of making, signing, and executing said instrument hereinbefore called a "saloon bond" there was then in full force and effect a certain ordinance of said city of Chicago; which said ordinance is as follows:

33 "Any license granted under this chapter may be revoked upon written notice by the mayor, whenever it shall appear to his satisfaction that the party so licensed shall have violated any

provisions of any ordinance of the city council relating to intoxicating liquors, or any condition of the bond aforesaid. Upon complaint to the mayor by two or more persons, that any place licensed as a saloon is a resort of disreputable persons, the mayor shall at once cause an investigation to be made as to such complaint, and if found to be true, he shall forthwith revoke the license issued to any person or persons to keep such saloon. Upon report to the mayor by the police department, that any saloon is the resort of disreputable persons, the mayor shall at once revoke the license of the keeper of such saloon."

It was further stipulated and agreed that said city of Chicago was a duly incorporated city, incorporated under the cities and villages act of said State of Illinois, and that it had full power and authority to enact said ordinances hereinbefore set forth, and to require the execution of said "saloon bond" by said defendant.

34 The court further certifies that the above and foregoing were all of the facts, evidence, or proceedings had, taken, or considered upon the trial of said cause.

The court further certifies that on April 27th, A. D. 1900, said court found the defendant guilty in manner and form charged in said indictment and imposed a fine upon said defendant in and for the sum of twenty-five dollars ($25); that to said finding said defendant then and there duly excepted and made and filed a motion in arrest of judgment; which said motion in arrest of judgment is as follows:

35 UNITED STATES OF AMERICA:

In the District Court of the United States in and for the Northern District of Illinois.

UNITED STATES
v.
PETER AMBROSINI. } Gen. No., 3125.

Motion in Arrest of Judgment.

Now comes said defendant, Peter Ambrosini, and moves this honorable court in arrest of judgment, and as gounds of said motion states the following:

(1.) Because the said indictment herein and each count thereof are null and void.

(2.) Because the alleged acts charged in and by each of the counts of said indictment to have been done by this defendant do not constitute a crime or an offense cognizable by this court.

(3.) Because this part of the statute of the United States entitled "An act to provide ways and means to meet war expenditures, and for other purposes," approved June 13, 1898, upon which said petitioner was convicted, is unconstitutional and void.

(4.) The judgment of said district court is contrary to law.

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And for other causes of error not herein specifically set forth.

PETER AMBROSINI,
By MORAN, MAYER & MEYER,
His Attorneys.

36 That thereupon said court overruled said motion in arrest of judgment; to which action of said court in overruling said motion in arrest of judgment said defendant then and there duly *executed.*

And the court further certifies that the above and foregoing were all of the proceedings had or taken during the trial of said cause.

Forasmuch, therefore, as the proceedings, matters, and things hereinbefore stated do not fully appear of record, and in order that the same may so appear, the defendant hereby tenders this his bill of exceptions and asks that the same may be signed and sealed by the judge of said court pursuant to the statute in such made and provided, which is accordingly done on this 28th day of April, A. D. 1900.

C. C. KOHLSAAT, [SEAL.]
Judge of said District Court in and for the Northern District of Illinois.

37 NORTHERN DISTRICT OF ILLINOIS, }
Northern Division. }

I, T. C. MacMillan, clerk of the district court of the United States of America for the northern district of Illinois, do hereby certify the above and foregoing to be a true and correct transcript of the record of the proceedings had in said court in case No. 3125, wherein The United States of America is the plaintiff and Peter Ambrosini is defendant, as the same appears from the records and files of said court now remaining in my custody and control.

In testimony whereof I have hereunto set my hand and affixed the seal of said court, at my office, in Chicago, in said district, this 8th day of May, A. D. 1900.

[Seal of Dist. Court U. S., Northern Dist. Illinois, 1855.]

T. C. MACMILLAN, *Clerk.*

38 UNITED STATES OF AMERICA, *ss:*

The President of the United States to the honorable the judges of the district court in and for the northern district of Illinois, Greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said district court, before you or some of you, between United States and Peter Ambrosini, a manifest error hath happened, to the great damage of the said Peter Ambrosini, as by his complaint appears, we, being willing that error, if any hath been, should be duly corrected and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then, under your seal, distinctly

and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same in the said Supreme Court, at Washington, within 30 days from the date hereof, that, the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error what of right and according to the laws and customs of the United States should be done.

Seal of Dist. Court U.S., Northern Dist. Illinois, 1855.

Witness the Honorable Melville W. Fuller, Chief Justice of the United States, the 28th day of April, in the year of our Lord one thousand nine hundred.

T. C. MACMILLAN,
Clerk of the District Court of the United States for the Northern District of Illinois.

Allowed by—
KOHLSAAT, *J.*

39 [Endorsed:] Writ of error. Filed May 10th, 1900. T. C. MacMillan, clerk. Copy deposited for the defendant in error in the clerk's office, U. S. district court, nor. dist. Illinois.

NORTHERN DISTRICT OF ILLINOIS, *ss:*

In obedience to the within writ I herewith transmit to the Supreme Court of the United States a true and complete transcript of the record and proceedings in the foregoing-entitled cause this tenth day of May, A. D. 1900.

T. C. MACMILLAN,
Clerk United States District Court, Northern District of Illinois.

40 UNITED STATES OF AMERICA, *ss:*

The President of the United States to United States, Greeting:

You are hereby cited and admonished to be and appear at a term of the Supreme Court of the United States, to be holden at Washington, D. C., within thirty days from the date hereof, pursuant to a writ of error filed in the clerk's office of the district court of the United States in and for the northern district of Illinois, wherein Peter Ambrosini is plaintiff in error and United States is defendant in error, to show cause, if any there be, why the judgment rendered against the said plaintiff in error, as in the said writ of error mentioned, should not be corrected and why speedy justice should not be done to the parties in that behalf.

Witness the Honorable C. C. Kohlsaat, judge of the district court of the United States in and for the northern district of Illinois, this 28th day of April, in the year of our Lord one thousand nine hundred.

KOHLSAAT, [SEAL.]
Judge of District Court, Northern District of Illinois.

Service of the within citation accepted this twenty-eighth day of April, 1900.

S. H. BETHEA,
District Attorney in and for the Northern District of Illinois.

41 [Endorsed:] United States of America. Peter Ambrosini, plaintiff in error, *v.* United States, defendant in error. Citation and acceptance thereon. Moran, Mayer & Meyer, law offices, Unity building, Chicago.

Endorsed on cover: File No., 17,795. N. Illinois D. C. U. S. Term No., 310. Peter Ambrosini, plaintiff in error, *vs.* The United States. Filed June 6th, 1900.